

Laws Pertaining to School Safety and Prevention Programs



Arizona Department of Education

School Safety & Prevention

Arizona Law

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In this title, unless the context otherwise requires:

1. "Act" means a bodily movement.
2. "Benefit" means anything of value or advantage, present or prospective.
3. "Calendar year" means three hundred sixty-five days actual time served without release, suspension or commutation of sentence, probation, pardon or parole, work furlough or release from confinement on any other basis.
4. "Community supervision" means that portion of a felony sentence imposed by the court pursuant to section 13-603, subsection I and served in the community after completing a period of imprisonment or served in prison in accordance with section 41-1604.07.
5. "Conduct" means an act or omission and its accompanying culpable mental state.
6. "Crime" means a misdemeanor or a felony.
7. "Criminal street gang" means an ongoing formal or informal association of persons whose members or associates individually or collectively engage in the commission, attempted commission, facilitation or solicitation of any felony act and who has at least one individual who is a criminal street gang member.
8. "Criminal street gang member" means an individual to whom two of the following seven criteria that indicate criminal street gang membership apply:
 - (a) Self-proclamation.
 - (b) Witness testimony or official statement.
 - (c) Written or electronic correspondence.
 - (d) Paraphernalia or photographs.
 - (e) Tattoos.
 - (f) Clothing or colors.
 - (g) Any other indicia of street gang membership.
9. "Culpable mental state" means intentionally, knowingly, recklessly or with criminal negligence as those terms are thusly defined:
 - (a) "Intentionally" or "with the intent to" means, with respect to a result or to conduct described by a statute defining an offense, that a person's objective is to cause that result or to engage in that conduct.
 - (b) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.
 - (c) "Recklessly" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.
 - (d) "Criminal negligence" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.
10. "Dangerous drug" means dangerous drug as defined by section 13-3401.
11. "Dangerous instrument" means anything that under the circumstances in which it is used, attempted to be used or threatened to be used is readily capable of causing death or serious physical injury.
12. "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or in the manner of its use or intended use is capable of creating a substantial risk of causing death or serious physical injury.
13. "Deadly weapon" means anything designed for lethal use. The term includes a firearm.

14. "Economic loss" means any loss incurred by a person as a result of the commission of an offense. Economic loss includes lost interest, lost earnings and other losses which would not have been incurred but for the offense. Economic loss does not include losses incurred by the convicted person, damages for pain and suffering, punitive damages or consequential damages.
15. "Enterprise" includes any corporation, association, labor union or other legal entity.
16. "Felony" means an offense for which a sentence to a term of imprisonment in the custody of the state department of corrections is authorized by any law of this state.
17. "Firearm" means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of expanding gases, except that it does not include a firearm in permanently inoperable condition.
18. "Government" means the state, any political subdivision of the state or any department, agency, board, commission, institution or governmental instrumentality of or within the state or political subdivision.
19. "Government function" means any activity which a public servant is legally authorized to undertake on behalf of a government.
20. "Intoxication" means any mental or physical incapacity resulting from use of drugs, toxic vapors or intoxicating liquors.
21. "Misdemeanor" means an offense for which a sentence to a term of imprisonment other than to the custody of the state department of corrections is authorized by any law of this state.
22. "Narcotic drug" means narcotic drugs as defined by section 13-3401.
23. "Offense" or "public offense" means conduct for which a sentence to a term of imprisonment or of a fine is provided by any law of the state in which it occurred or by any law, regulation or ordinance of a political subdivision of that state and, if the act occurred in a state other than this state, it would be so punishable under the laws, regulations or ordinances of this state or of a political subdivision of this state if the act had occurred in this state.
24. "Omission" means the failure to perform an act as to which a duty of performance is imposed by law.
25. "Peace officer" means any person vested by law with a duty to maintain public order and make arrests.
26. "Person" means a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in property.
27. "Petty offense" means an offense for which a sentence of a fine only is authorized by law.
28. "Physical force" means force used upon or directed toward the body of another person and includes confinement, but does not include deadly physical force.
29. "Physical injury" means the impairment of physical condition.
30. "Possess" means knowingly to have physical possession or otherwise to exercise dominion or control over property.
31. "Possession" means a voluntary act if the defendant knowingly exercised dominion or control over property.
32. "Property" means anything of value, tangible or intangible.
33. "Public servant" means any officer or employee of any branch of government, whether elected, appointed or otherwise employed, including a peace officer, and any person participating as advisor, consultant or otherwise in performing a governmental function. The term does not include jurors or witnesses. Public servant includes those who have been elected, appointed, employed or designated to become a public servant although not yet occupying that position.
34. "Serious physical injury" includes physical injury which creates a reasonable risk of death, or which causes serious and permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.
35. "Unlawful" means contrary to law or, where the context so requires, not permitted by law.
36. "Vehicle" means a device in, upon or by which any person or property is or may be transported or drawn upon a highway, waterway or airway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

37. "Voluntary act" means a bodily movement performed consciously and as a result of effort and determination.

38. "Voluntary intoxication" means intoxication caused by the knowing use of drugs, toxic vapors or intoxicating liquors by a person, the tendency of which to cause intoxication the person knows or ought to know, unless the person introduces them pursuant to medical advice or under such duress as would afford a defense to an offense.

13-403. Justification; use of physical force

The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

1. A parent or guardian and a teacher or other person entrusted with the care and supervision of a minor or incompetent person may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent reasonably necessary and appropriate to maintain discipline.
2. A superintendent or other entrusted official of a jail, prison or correctional institution may use physical force for the preservation of peace, to maintain order or discipline, or to prevent the commission of any felony or misdemeanor.
3. A person responsible for the maintenance of order in a place where others are assembled or on a common motor carrier of passengers, or a person acting under his direction, may use physical force if and to the extent that a reasonable person would believe it necessary to maintain order, but such person may use deadly physical force only if reasonably necessary to prevent death or serious physical injury.
4. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use physical force upon that person to the extent reasonably necessary to thwart the result.
5. A duly licensed physician or a registered nurse or a person acting under his direction, or any other person who renders emergency care at the scene of an emergency occurrence, may use reasonable physical force for the purpose of administering a recognized and lawful form of treatment which is reasonably adapted to promoting the physical or mental health of the patient if:
 - (a) The treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of his parent, guardian or other person entrusted with his care and supervision except as otherwise provided by law; or
 - (b) The treatment is administered in an emergency when the person administering such treatment reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.
6. A person may otherwise use physical force upon another person as further provided in this chapter.

13-604. Dangerous and repetitive offenders; definitions

A. Except as provided in subsection F, G or H of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D.

The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	3 years	4.5 years	6 years
Class 5	1.5 years	2.25 years	3 years
Class 6	1 year	1.75 years	2.25 years

B. Except as provided in subsection I, J or K of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, whether a completed or preparatory offense, and who has a historical prior felony conviction shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	6 years	9.25 years	18.5 years
Class 3	4.5 years	6.5 years	13 years

C. Except as provided in subsection F, G, H or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony, whether a completed or preparatory offense, and who has two or more historical prior felony convictions shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

D. Except as provided in subsection I, J, K or S of this section or section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 2 or 3 felony, and who has two or more historical prior felony convictions, shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

E. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of any misdemeanor or petty offense, other than a traffic offense, and who has been convicted of one or more of the same misdemeanors or petty offenses within two years next preceding the date of the present offense shall be sentenced for the next higher class of offense than that for which such person currently stands convicted.

F. Except as provided in section 13-604.01, a person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument without having previously been convicted of any felony shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	4 years	6 years	8 years
Class 5	2 years	3 years	4 years
Class 6	1.5 years	2.25 years	3 years

G. Except as provided in section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has a historical prior felony conviction involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	8 years	10 years	12 years
Class 5	4 years	5 years	6 years
Class 6	3 years	3.75 years	4.5 years

H. Except as provided in subsection S of this section or section 13-604.01, upon conviction of a class 4, 5 or 6 felony involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument a person who has two or more historical prior felony convictions involving the intentional or knowing infliction of serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this

subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 4	12 years	14 years	16 years
Class 5	6 years	7 years	8 years
Class 6	4.5 years	5.25 years	6 years

I. Except as provided in section 13-604.01, upon a first conviction of a class 2 or 3 felony involving discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or upon conviction of a class 2 or 3 felony when the intentional or knowing infliction of serious physical injury upon another has occurred, the defendant shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	7 years	10.5 years	21 years
Class 3	5 years	7.5 years	15 years

J. Except as provided in section 13-604.01, upon conviction of a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has a historical prior felony conviction that is a class 1, 2 or 3 felony involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	14 years	15.75 years	28 years
Class 3	10 years	11.25 years	20 years

K. Except as provided in subsection S of this section or section 13-604.01, upon conviction for a class 2 or 3 felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another, a person who has two or more historical prior felony convictions that are class 1, 2 or 3 felonies involving the use or exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury on another shall be sentenced to imprisonment as prescribed in this subsection and shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive term may be mitigated or aggravated within

the range prescribed under this subsection pursuant to the terms of section 13-702, subsections B, C and D. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Presumptive</u>	<u>Maximum</u>
Class 2	21 years	28 years	35 years
Class 3	15 years	20 years	25 years

L. For the purposes of subsections I, J and K of this section in determining the applicability of the penalties provided in this section for second or subsequent class 2 or 3 felonies, the conviction for any felony committed prior to October 1, 1978 which, if committed after October 1, 1978, could be a dangerous felony under this section may be designated by the state as a prior felony.

M. Convictions for two or more offenses committed on the same occasion shall be counted as only one conviction for purposes of this section.

N. A person who has been convicted in any court outside the jurisdiction of this state of an offense which if committed within this state would be punishable as a felony or misdemeanor is subject to the provisions of this section. A person who has been convicted as an adult of an offense punishable as a felony or a misdemeanor under the provisions of any prior code in this state shall be subject to the provisions of this section.

O. Time spent incarcerated within the two years next preceding the date of the offense for which a person is currently being sentenced under subsection E of this section shall not be included in the two years required to be free of convictions for purposes of that subsection.

P. The penalties prescribed by this section shall be substituted for the penalties otherwise authorized by law if the previous conviction or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody as provided in subsection R of this section is charged in the indictment or information and admitted or found by the court or if the dangerous nature of the felony is charged in the indictment or information and admitted or found by the trier of fact. The release provisions prescribed by this section shall not be substituted for any penalties required by the substantive offense or provision of law that specifies a later release or completion of the sentence imposed prior to release. The court shall allow the allegation of a prior conviction, the dangerous nature of the felony or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody at any time prior to the date the case is actually tried unless the allegation is filed fewer than twenty days before the case is actually tried and the court finds on the record that the defendant was in fact prejudiced by the untimely filing and states the reasons for these findings, provided that when the allegation of a prior conviction is filed, the state must make available to the defendant a copy of any material or information obtained concerning the prior conviction. The charge of previous conviction or the allegation that the defendant committed a felony while released on bond or on the defendant's own recognizance or while escaped from preconviction custody shall not be read to the jury. For the purposes of this subsection, "dangerous nature of the felony" means a felony involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or the intentional or knowing infliction of serious physical injury upon another.

Q. Intentional failure by the court to impose the mandatory sentences or probation conditions provided in this title shall be deemed to be malfeasance.

R. A person who is convicted of committing any felony offense, which felony offense is committed while the person is released on bail or on the defendant's own recognizance on a separate felony

offense or while the person is escaped from preconviction custody for a separate felony offense, shall be sentenced to a term of imprisonment two years longer than would otherwise be imposed for the felony offense committed while released on bond or on the defendant's own recognizance or while escaped from preconviction custody. The additional sentence imposed under this subsection is in addition to any enhanced punishment that may be applicable under any of the other subsections of this section. The defendant is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the two years are served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted.

S. A person who is at least eighteen years of age or who has been tried as an adult and who stands convicted of a serious offense except a drug offense, first degree murder or any dangerous crime against children, whether a completed or preparatory offense, and who has previously been convicted of two or more serious offenses not committed on the same occasion shall be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by section 31-233, subsection A or B until the person has served not less than twenty-five years or the sentence is commuted.

T. A person who is convicted of committing any felony offense with the intent to promote, further or assist any criminal conduct by a criminal street gang shall not be eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as authorized by section 31-233, subsection A or B until the sentence imposed by the court has been served, the person is eligible for release pursuant to section 41-1604.07 or the sentence is commuted. The presumptive, minimum and maximum sentence for the offense shall be increased by three years. The additional sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable.

U. A person who is convicted of intentionally or knowingly committing aggravated assault on a peace officer while the officer is engaged in the execution of any official duties pursuant to section 13-1204, subsection A, paragraph 1 or 2 shall be sentenced to imprisonment for not less than the presumptive sentence authorized under this chapter and is not eligible for suspension of sentence, commutation or release on any basis until the sentence imposed is served.

V. As used in this section:

1. "Historical prior felony conviction" means:

(a) Any prior felony conviction for which the offense of conviction:

(i) Mandated a term of imprisonment except for a violation of chapter 34 of this title involving a drug below the threshold amount; or

(ii) Involved the intentional or knowing infliction of serious physical injury; or

(iii) Involved the use or exhibition of a deadly weapon or dangerous instrument; or

(iv) Involved the illegal control of a criminal enterprise; or

(v) Involved aggravated driving under the influence of intoxicating liquor or drugs, driving while under the influence of intoxicating liquor or drugs with a suspended, canceled, revoked or refused driver license or driving under the influence of intoxicating liquor or drugs with two or more driving under the influence of intoxicating liquor or drug convictions within a period of sixty months; or

(vi) Involved any dangerous crime against children as defined in section 13-604.01.

(b) Any class 2 or 3 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the ten years immediately preceding the date of the present offense. Any time spent incarcerated is excluded in calculating if the offense was committed within the preceding ten years.

(c) Any class 4, 5 or 6 felony, except the offenses listed in subdivision (a) of this paragraph, that was committed within the five years immediately preceding the date of the present offense. Any time spent incarcerated is excluded in calculating if the offense was committed within the preceding five years.

(d) Any felony conviction that is a third or more prior felony conviction.

2. "Preconviction custody" means the confinement of a person in a jail in this state or another state after the person is arrested for or charged with a felony offense.

3. "Serious offense" means any of the following offenses if committed in this state or any offense committed outside this state which if committed in this state would constitute one of the following offenses:

(a) First degree murder.

(b) Second degree murder.

(c) Manslaughter.

(d) Aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument.

(e) Sexual assault.

(f) Any dangerous crime against children.

(g) Arson of an occupied structure.

(h) Armed robbery.

(i) Burglary in the first degree.

(j) Kidnapping.

(k) Sexual conduct with a minor under fifteen years of age.

4. "Substantive offense" means the felony, misdemeanor or petty offense that the trier of fact found beyond a reasonable doubt the defendant committed. Substantive offense does not include allegations that, if proven, would enhance the sentence of imprisonment or fine to which the defendant otherwise would be subject.

13-609. Offenses committed in school safety zone; sentences; definitions

A. Except as otherwise prescribed in section 13-3411, a person who is convicted of a felony offense that is committed in a school safety zone is guilty of the same class of felony that the person would otherwise be guilty of if the violation had not occurred within a school safety zone, except that the court may impose a sentence that is one year longer than the minimum, maximum and presumptive

sentence for that violation. The additional sentence imposed under this subsection is in addition to any other enhanced punishment that may be applicable under section 13-604 or other provisions of chapter 34 of this title.

B. In addition to any other penalty prescribed by this title, the court may order a person subject to the provisions of subsection A of this section to pay a fine of not less than two thousand dollars and not more than the maximum authorized by chapter 8 of this title.

C. Each school district governing board or its designee, or chief administrative officer in the case of a nonpublic or charter school, may place and maintain permanently affixed signs that are located in a visible manner at the main entrance of each school and that identify the school and its accompanying grounds as a school safety zone. A school may include information regarding the school safety zone boundaries on a sign that identifies the area as a drug free zone and not post separate school safety zone signs.

D. For purposes of this section:

1. "School" means any public or nonpublic kindergarten program, common school or high school.

2. "School safety zone" means any of the following:

(a) The area within three hundred feet of a school or its accompanying grounds.

(b) Any public property within one thousand feet of a school or its accompanying grounds.

(c) Any school bus.

(d) A bus contracted to transport pupils to any school during the time when the contracted vehicle is transporting pupils on behalf of the school.

(e) A school bus stop.

(f) Any bus stop where school children are awaiting, boarding or exiting a bus contracted to transport pupils to any school.

13-1202. Threatening or intimidating; classification

A. A person commits threatening or intimidating if such person threatens or intimidates by word or conduct:

1. To cause physical injury to another person or serious damage to the property of another; or

2. To cause, or in reckless disregard to causing, serious public inconvenience including, but not limited to, evacuation of a building, place of assembly, or transportation facility; or

3. To cause physical injury to another person or damage to the property of another in order to promote, further or assist in the interests of or to cause, induce or solicit another person to participate in a criminal street gang, a criminal syndicate or a racketeering enterprise.

B. Threatening or intimidating pursuant to subsection A, paragraph 1 or 2 is a class 1 misdemeanor.

Threatening or intimidating pursuant to subsection A, paragraph 3 is a class 4 felony.

13-1203. Assault; classification

A. A person commits assault by:

1. Intentionally, knowingly or recklessly causing any physical injury to another person; or

2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or

3. Knowingly touching another person with the intent to injure, insult or provoke such person.

B. Assault committed intentionally or knowingly pursuant to subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed recklessly pursuant to subsection A, paragraph 1 or assault pursuant to subsection A, paragraph 2 is a class 2 misdemeanor. Assault committed pursuant to subsection A, paragraph 3 is a class 3 misdemeanor.

13-1204. Aggravated assault; classification

A. A person commits aggravated assault if the person commits assault as defined in section 13-1203 under any of the following circumstances:

1. If the person causes serious physical injury to another.
2. If the person uses a deadly weapon or dangerous instrument.
3. If the person commits the assault after entering the private home of another with the intent to commit the assault.
4. If the person is eighteen years of age or more and commits the assault upon a child the age of fifteen years or under.
5. If the person commits the assault knowing or having reason to know that the victim is a peace officer, or a person summoned and directed by the officer while engaged in the execution of any official duties.
6. If the person commits the assault knowing or having reason to know the victim is a teacher or other person employed by any school and the teacher or other employee is upon the grounds of a school or grounds adjacent to the school or is in any part of a building or vehicle used for school purposes, or any teacher or school nurse visiting a private home in the course of the teacher's or nurse's professional duties, or any teacher engaged in any authorized and organized classroom activity held on other than school grounds.
7. If the person meets both of the following conditions:
 - (a) Is imprisoned or otherwise subject to the custody of any of the following:
 - (i) The state department of corrections.
 - (ii) The department of juvenile corrections.
 - (iii) A law enforcement agency.
 - (iv) A county or city jail or an adult or juvenile detention facility of a city or county.
 - (v) Any other entity that is contracting with the state department of corrections, the department of juvenile corrections, a law enforcement agency, another state, any private correctional facility, a county, a city or the federal bureau of prisons or other federal agency that has responsibility for sentenced or unsentenced prisoners.
 - (b) Commits an assault knowing or having reason to know that the victim is acting in an official capacity as an employee of any of the entities prescribed by subdivision (a) of this paragraph.
8. If the person commits the assault while the victim is bound or otherwise physically restrained or while the victim's capacity to resist is substantially impaired.
9. If the person commits the assault knowing or having reason to know that the victim is a fire fighter, fire investigator, fire inspector, emergency medical technician or paramedic engaged in the execution of any official duties, or a person summoned and directed by such individual while engaged in the execution of any official duties.
10. If the person commits the assault knowing or having reason to know that the victim is a licensed health care practitioner who is certified or licensed pursuant to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by the licensed health care practitioner while engaged in the person's professional duties. The provisions of this paragraph do not apply if the person who commits the assault is seriously mentally ill, as defined in section 36-550 or is afflicted with Alzheimer's disease or related dementia.
11. If the person commits assault by any means of force which causes temporary but substantial disfigurement, temporary but substantial loss or impairment of any body organ or part, or a fracture of any body part.
12. If the person commits assault as prescribed by section 13-1203, subsection A, paragraph 1 or 3 and the person is in violation of an order of protection issued against the person pursuant to section 13-3602 or 13-3624.

B. Except pursuant to subsection C of this section, aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section is a class 3 felony except if the victim is under fifteen years of age in which case it is a class 2 felony punishable pursuant to section 13-604.01. Aggravated assault pursuant to subsection A, paragraph 11 of this section is a class 4 felony. Aggravated assault

pursuant to subsection A, paragraph 7 of this section is a class 5 felony. Aggravated assault pursuant to subsection A, paragraph 3, 4, 5, 6, 8, 9, 10 or 12 of this section is a class 6 felony.

C. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 2 felony.

Aggravated assault pursuant to subsection A, paragraph 11 of this section committed on a peace officer while the officer is engaged in the execution of any official duties is a class 3 felony.

Aggravated assault pursuant to subsection A, paragraph 5 of this section resulting in any physical injury to a peace officer while the officer is engaged in the execution of any official duties is a class 5 felony.

13-2911. Interference with or disruption of an educational institution; violation; classification; definitions

A. A person commits interference with or disruption of an educational institution by doing any of the following:

1. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause physical injury to any employee of an educational institution or any person attending an educational institution.

2. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause damage to any educational institution, the property of any educational institution, the property of any employee of an educational institution or the property of any person attending an educational institution.

3. Knowingly going on or remaining on the property of any educational institution for the purpose of interfering with or disrupting the lawful use of the property or in any manner as to deny or interfere with the lawful use of the property by others.

4. Knowingly refusing to obey a lawful order given pursuant to subsection C of this section.

B. To constitute a violation of this section, the acts that are prohibited by subsection A, paragraph 1 or 2 of this section are not required to be directed at a specific individual, a specific educational institution or any specific property of an educational institution.

C. When the chief administrative officer of an educational institution or an officer or employee designated by him to maintain order has reasonable grounds to believe that any person or persons are committing any act that interferes with or disrupts the lawful use of the property by others at the educational institution or has reasonable grounds to believe any person has entered on the property of an educational institution for the purpose of committing such an act, the officer or employee may order the person to leave the property of the educational institution.

D. The appropriate governing board of every educational institution shall adopt rules for the maintenance of public order on all property of any educational institution under its jurisdiction that is used for educational purposes and shall provide a program for the enforcement of its rules. The rules shall govern the conduct of students, faculty and other staff and all members of the public while on the property of the educational institution. Penalties for violations of the rules shall be clearly set forth and enforced. Penalties shall include provisions for the ejection of a violator from the property and, in the case of a student, faculty member or other staff violator, the violator's suspension, expulsion or other appropriate disciplinary action. Adoption of all rules required by this section shall be governed by title 41, chapter 6, and the rules shall be amended as necessary to ensure the maintenance of public order. Any deadly weapon, dangerous instrument or explosive that is used, displayed or possessed by a person in violation of a rule adopted pursuant to this subsection shall be forfeited and sold, destroyed or otherwise disposed of pursuant to chapter 39 of this title. This subsection does not preclude school districts from conducting approved gun safety programs on school campuses. This subsection does not apply to private universities, colleges, high schools or common schools or other private educational institutions.

E. An educational institution is not eligible to receive any state aid or assistance unless rules are adopted in accordance with this section.

F. This section does not prevent or limit the authority of the governing board of any educational institution to discharge any employee or expel, suspend or otherwise punish any student for any violation of its rules, even though the violation is unlawful under this chapter or is otherwise an offense.

G. This section may be enforced by any peace officer in this state wherever and whenever a violation occurs.

H. Restitution under sections 8-341, 8-345 and 13-603 applies to any financial loss that is suffered by a person or educational institution as a result of a violation of this section.

I. Interference with or disruption of an educational institution pursuant to subsection A, paragraph 1 or 2 of this section is a class 6 felony. Interference with or disruption of an educational institution pursuant to subsection A, paragraph 3 or 4 of this section is a class 1 misdemeanor.

J. For the purposes of this section:

1. "Educational institution" means, except as otherwise provided, any university, college, community college, high school or common school in this state.

2. "Governing board" means the body, whether appointed or elected, that has responsibility for the maintenance and government of an educational institution.

3. "Interference with or disruption of" includes causing an employee of an educational institution to take any action to protect the educational institution or the employees, students or property of an educational institution.

4. "Property of an educational institution" means all land, buildings and other facilities that are owned, operated or controlled by the governing board of an educational institution and that are devoted to educational purposes.

13-3102. Misconduct involving weapons; defenses; classification; definitions

A. A person commits misconduct involving weapons by knowingly:

1. Carrying a deadly weapon without a permit pursuant to section 13-3112 except a pocket knife concealed on his person; or

2. Carrying a deadly weapon without a permit pursuant to section 13-3112 concealed within immediate control of any person in or on a means of transportation; or

3. Manufacturing, possessing, transporting, selling or transferring a prohibited weapon; or

4. Possessing a deadly weapon if such person is a prohibited possessor; or

5. Selling or transferring a deadly weapon to a prohibited possessor; or

6. Defacing a deadly weapon; or

7. Possessing a defaced deadly weapon knowing the deadly weapon was defaced; or

8. Using or possessing a deadly weapon during the commission of any felony offense included in chapter 34 of this title; or

9. Discharging a firearm at an occupied structure in order to assist, promote or further the interests of a criminal street gang, a criminal syndicate or a racketeering enterprise; or

10. Unless specifically authorized by law, entering any public establishment or attending any public event and carrying a deadly weapon on his person after a reasonable request by the operator of the establishment or the sponsor of the event or the sponsor's agent to remove his weapon and place it in the custody of the operator of the establishment or the sponsor of the event; or

11. Unless specifically authorized by law, entering an election polling place on the day of any election carrying a deadly weapon; or

12. Possessing a deadly weapon on school grounds; or

13. Unless specifically authorized by law, entering a commercial nuclear generating station carrying a deadly weapon on his person or within the immediate control of any person; or

14. Supplying, selling or giving possession or control of a firearm to another person if the person knows or has reason to know that the other person would use the firearm in the commission of any felony.

B. Subsection A, paragraph 1 of this section shall not apply to a person in his dwelling, on his business premises or on real property owned or leased by that person.

- C. Subsection A, paragraphs 1, 2, 3, 7, 10, 11, 12 and 13 of this section shall not apply to:
1. A peace officer or any person summoned by any peace officer to assist and while actually assisting in the performance of official duties; or
 2. A member of the military forces of the United States or of any state of the United States in the performance of official duties; or
 3. A warden, deputy warden or correctional officer of the state department of corrections; or
 4. A person specifically licensed, authorized or permitted pursuant to a statute of this state or of the United States.
- D. Subsection A, paragraphs 3 and 7 of this section shall not apply to:
1. The possessing, transporting, selling or transferring of weapons by a museum as a part of its collection or an educational institution for educational purposes or by an authorized employee of such museum or institution, if:
 - (a) Such museum or institution is operated by the United States or this state or a political subdivision of this state, or by an organization described in section 170(c) of title 26 of the United States Code as a recipient of a charitable contribution; and
 - (b) Reasonable precautions are taken with respect to theft or misuse of such material.
 2. The regular and lawful transporting as merchandise; or
 3. Acquisition by a person by operation of law such as by gift, devise or descent or in a fiduciary capacity as a recipient of the property or former property of an insolvent, incapacitated or deceased person.
- E. Subsection A, paragraph 3 of this section shall not apply to the merchandise of an authorized manufacturer of or dealer in prohibited weapons, when such material is intended to be manufactured, possessed, transported, sold or transferred solely for or to a dealer or a regularly constituted or appointed state, county or municipal police department or police officer, or a detention facility, or the military service of this or another state or the United States, or a museum or educational institution or a person specifically licensed or permitted pursuant to federal or state law.
- F. Subsection A, paragraph 1 of this section shall not apply to a weapon or weapons carried in a belt holster which holster is wholly or partially visible, or carried in a scabbard or case designed for carrying weapons which scabbard or case is wholly or partially visible or carried in luggage. Subsection A, paragraph 2 of this section shall not apply to a weapon or weapons carried in a case, holster, scabbard, pack or luggage which is carried within a means of transportation or within a storage compartment, trunk or glove compartment of a means of transportation.
- G. Subsection A, paragraph 10 of this section shall not apply to shooting ranges or shooting events, hunting areas or similar locations or activities.
- H. Subsection A, paragraph 3 of this section shall not apply to a weapon described in section 13-3101, paragraph 7, subdivision (e), if such weapon is possessed for the purposes of preparing for, conducting or participating in lawful exhibitions, demonstrations, contests or athletic events involving the use of such weapon. Subsection A, paragraph 12 of this section shall not apply to a weapon if such weapon is possessed for the purposes of preparing for, conducting or participating in hunter or firearm safety courses.
- I. Subsection A, paragraph 12 of this section shall not apply to the possession of a:
1. Firearm which is not loaded and which is carried within a means of transportation under the control of an adult provided that if the adult leaves the means of transportation the firearm shall not be visible from the outside of the means of transportation and the means of transportation shall be locked.
 2. Firearm for use on the school grounds in a program approved by a school.
- J. Misconduct involving weapons under subsection A, paragraph 9 or 14 of this section is a class 3 felony. Misconduct involving weapons under subsection A, paragraph 3, 4 or 8 of this section is a class 4 felony. Misconduct involving weapons under subsection A, paragraph 12 of this section is a class 1 misdemeanor unless the violation occurs in connection with conduct which violates the provisions of section 13-2308, subsection A, paragraph 5, section 13-2312, subsection C, section 13-3409 or section 13-3411, in which case the offense is a class 6 felony. Misconduct involving weapons under subsection A, paragraphs 5, 6 and 7 of this section is a class 6 felony. Misconduct involving weapons under subsection A, paragraphs 1, 2, 10, 11 and 13 of this section is a class 1 misdemeanor.

K. For purposes of this section:

1. "Public establishment" means a structure, vehicle or craft that is owned, leased or operated by this state or a political subdivision of this state.
2. "Public event" means a specifically named or sponsored event of limited duration either conducted by a public entity or conducted by a private entity with a permit or license granted by a public entity. Public event does not include an unsponsored gathering of people in a public place.
3. "School" means a public or nonpublic kindergarten program, common school or high school.
4. "School grounds" means in, or on the grounds of, a school.

13-3111. Minors prohibited from carrying or possessing firearms; exceptions; seizure and forfeiture; penalties; classification

A. Except as provided in subsection B, an unemancipated person who is under eighteen years of age and who is unaccompanied by a parent, grandparent or guardian, or a certified hunter safety instructor or certified firearms safety instructor acting with the consent of the unemancipated person's parent or guardian, shall not knowingly carry or possess on his person, within his immediate control, or in or on a means of transportation a firearm in any place that is open to the public or on any street or highway or on any private property except private property owned or leased by the minor or the minor's parent, grandparent or guardian.

B. This section does not apply to a person who is fourteen, fifteen, sixteen or seventeen years of age and who is any of the following:

1. Engaged in lawful hunting or shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.
2. Engaged in lawful transportation of an unloaded firearm for the purpose of lawful hunting.
3. Engaged in lawful transportation of an unloaded firearm between the hours of 5:00 a.m. and 10:00 p.m. for the purpose of shooting events or marksmanship practice at established ranges or other areas where the discharge of a firearm is not prohibited.
4. Engaged in activities requiring the use of a firearm that are related to the production of crops, livestock, poultry, livestock products, poultry products, or ratites or in the production or storage of agricultural commodities.

C. If the minor is not exempt under subsection B and is in possession of a firearm, a peace officer shall seize the firearm at the time the violation occurs.

D. In addition to any other penalty provided by law a person who violates subsection A shall be subject to the following penalties:

1. If adjudicated a delinquent juvenile for an offense involving an unloaded firearm, a fine of not more than two hundred fifty dollars, and the court may order the suspension or revocation of the person's driver license until the person reaches eighteen years of age. If the person does not have a driver license at the time of the adjudication, the court may direct that the department of transportation not issue a driver license to the person until the person reaches eighteen years of age.
2. If adjudicated a delinquent juvenile for an offense involving a loaded firearm, a fine of not more than five hundred dollars, and the court may order the suspension or revocation of the person's driver license until the person reaches eighteen years of age. If the person does not have a driver license at the time of the adjudication, the court may direct that the department of transportation not issue a driver license to the person until the person reaches eighteen years of age.
3. If adjudicated a delinquent juvenile for an offense involving a loaded or unloaded firearm, if the person possessed the firearm while the person was the driver or an occupant of a motor vehicle, a fine of not more than five hundred dollars and the court shall order the suspension or revocation of the person's driver license until the person reaches eighteen years of age. If the person does not have a driver license at the time of adjudication, the court shall direct that the department of transportation not issue a driver license to the person until the person reaches eighteen years of age. If the court finds that no other means of transportation is available, the driving privileges of the child may be restricted to travel between the child's home, school and place of employment during specified periods of time according to the child's school and employment schedule.

E.!!Firearms seized pursuant to subsection C shall be held by the law enforcement agency responsible for the seizure until the charges have been adjudicated or disposed of otherwise or the person is convicted. Upon adjudication or conviction of a person for a violation of this section, the court shall order the firearm forfeited. However, the law enforcement agency shall return the firearm to the lawful owner if the identity of that person is known.

F.!!If the court finds that the parent or guardian of a minor found responsible for violating this section knew or reasonably should have known of the minor's unlawful conduct and made no effort to prohibit it, the parent or guardian is jointly and severally responsible for any fine imposed pursuant to this section or for any civil actual damages resulting from the unlawful use of the firearm by the minor.

G.!!This section is supplemental to any other law imposing a criminal penalty for the use or exhibition of a deadly weapon. A minor who violates this section may be prosecuted and convicted for any other criminal conduct involving the use or exhibition of the deadly weapon.

H.!!This section applies only in counties with populations of more than five hundred thousand persons according to the most recent decennial census. Counties with populations of five hundred thousand persons or less according to the most recent decennial census, or cities or towns within those counties, may adopt an ordinance identical to this section.

I.!!A person who violates subsection A is guilty of a class 6 felony.

13-3411. Possession, use, sale or transfer of marijuana, peyote, prescription drugs, dangerous drugs or narcotic drugs or manufacture of dangerous drugs in a drug free school zone; violation; classification; definitions

A. It is unlawful for a person to do any of the following:

1. Intentionally be present in a drug free school zone to sell or transfer marijuana, peyote, prescription-only drugs, dangerous drugs or narcotic drugs.
2. Possess or use marijuana, peyote, dangerous drugs or narcotic drugs in a drug free school zone.
3. Manufacture dangerous drugs in a drug free school zone.

B. A person who violates subsection A of this section is guilty of the same class of felony that the person would otherwise be guilty of had the violation not occurred within a drug free school zone, but the minimum, maximum and presumptive sentence for that violation shall be increased by one year. A person convicted of violating subsection A of this section is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except pursuant to section 31-233, subsection A or B until the sentence imposed by the court has been served or commuted. The additional sentence imposed under this subsection is in addition to any enhanced punishment that may be applicable under section 13-604 or other provisions of this chapter.

C. In addition to any other penalty prescribed by this title, the court shall order a person convicted of a violation of this section to pay a fine of not less than two thousand dollars or three times the value as determined by the court of the drugs involved in or giving rise to the charge, whichever is greater, and not more than the maximum authorized by chapter 8 of this title. A judge shall not suspend any part or all of the imposition of any fine required by this subsection.

D. Each school district's governing board or its designee, or the chief administrative officer in the case of a nonpublic school, shall place and maintain permanently affixed signs located in a visible manner at the main entrance of each school that identifies the school and its accompanying grounds as a drug free school zone.

E. The drug free school zone map prepared pursuant to title 15 shall constitute an official record as to the location and boundaries of each drug free school zone. The school district's governing board or its designee, or the chief administrative officer in the case of any nonpublic school, shall promptly notify the county attorney of any changes in the location and boundaries of any school property and shall file with the county recorder the original map prepared pursuant to title 15.

F. All school personnel who observe a violation of this section shall immediately report the violation to a school administrator. The administrator shall immediately report the violation to a peace officer. It is unlawful for any school personnel or school administrator to fail to report a violation as prescribed in this section.

G. School personnel having custody or control of school records of a student involved in an alleged violation of this section shall make the records available to a peace officer upon written request signed by a magistrate. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding. A person furnishing records required under this subsection or a person participating in a judicial or administrative proceeding or investigation resulting from the furnishing of records required under this subsection is immune from civil or criminal liability by reason of such action unless the person acted with malice.

H. A person who violates subsection F of this section is guilty of a class 3 misdemeanor.

I. For purposes of this section:

1. "Drug free school zone" means the area within three hundred feet of a school or its accompanying grounds, any public property within one thousand feet of a school or its accompanying grounds, a school bus stop or on any school bus or bus contracted to transport pupils to any school.
2. "School" means any public or nonpublic kindergarten program, common school or high school.

13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under section 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, christian science practitioner or priest who has received a confidential communication or a confession in that person's role as a member of the clergy, christian science practitioner or a priest in the course of the discipline enjoined by the church to which the member of the clergy, christian science practitioner or priest belongs may withhold reporting of the communication or confession if the member of the clergy, christian science practitioner or priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, christian science practitioner or priest may otherwise make of the minor. For the purposes of this subsection, "person" means:

1. Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.
2. Any peace officer, member of the clergy, priest or christian science practitioner.
3. The parent, stepparent or guardian of the minor.
4. School personnel or domestic violence victim advocate who develop the reasonable belief in the course of their employment.
5. Any other person who has responsibility for the care or treatment of the minor.

B. A report is not required under this section for conduct prescribed by sections 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D. Reports shall be made immediately by telephone or in person and shall be followed by a written report within seventy-two hours. The reports shall contain:

1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor, if known.
2. The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.
3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in section 13-3401 shall immediately report this information, or cause a report to be made, to child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer or child protective services worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer or child protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When telephone or in-person reports are received by a peace officer, the officer shall immediately notify child protective services in the department of economic security and make the information available to them. Notwithstanding any other statute, when child protective services receives these reports by telephone or in person, it shall immediately notify a peace officer in the appropriate jurisdiction.

I. Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the involved minor may be performed.

J. A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:

1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.
2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.
3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or child protective services in the department of economic security.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a christian science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a christian science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. Nothing in this subsection discharges a

member of the clergy, a christian science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.
2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, upon application of a peace officer or child protective services worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer or child protective services worker investigating the abuse, child abuse, physical injury or neglect.

O. A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P. For the purposes of this section:

1. "Abuse" has the same meaning prescribed in section 8-201.
2. "Child abuse" means child abuse pursuant to section 13-3623.
3. "Neglect" has the same meaning prescribed in section 8-201.
4. "Reportable offense" means any of the following:
 - (a) Any offense listed in chapters 14 and 35.1 of this title or section 13-3506.01.
 - (b) Surreptitious photographing, videotaping, filming or digitally recording of a minor pursuant to section 13-3019.
 - (c) Child prostitution pursuant to section 13-3212.
 - (d) Incest pursuant to section 13-3608.

15-341. General powers and duties; immunity; delegation

A. The governing board shall:

1. Prescribe and enforce policies and procedures for the governance of the schools, not inconsistent with law or rules prescribed by the state board of education.
2. Maintain the schools established by it for the attendance of each pupil for a period of not less than one hundred seventy-five school days or two hundred school days, as applicable, or its equivalent as approved by the superintendent of public instruction for a school district operating on a year-round operation basis, to offer an educational program on the basis of a four day school week or to offer an alternative kindergarten program on the basis of a three day school week, in each school year, and if the funds of the district are sufficient, for a longer period, and as far as practicable with equal rights and privileges.
3. Exclude from schools all books, publications, papers or audiovisual materials of a sectarian, partisan or denominational character.
4. Manage and control the school property within its district.
5. Acquire school furniture, apparatus, equipment, library books and supplies for the use of the schools.
6. Prescribe the curricula and criteria for the promotion and graduation of pupils as provided in sections 15-701 and 15-701.01.
7. Furnish, repair and insure, at full insurable value, the school property of the district.
8. Construct school buildings on approval by a vote of the district electors.
9. Make in the name of the district conveyances of property belonging to the district and sold by the board.
10. Purchase school sites when authorized by a vote of the district at an election conducted as nearly as practicable in the same manner as the election provided in section 15-481 and held on a date prescribed in section 15-491, subsection E, but such authorization shall not necessarily specify the

site to be purchased and such authorization shall not be necessary to exchange unimproved property as provided in section 15-342, paragraph 23.

11. Construct, improve and furnish buildings used for school purposes when such buildings or premises are leased from the national park service.

12. Purchase school sites or construct, improve and furnish school buildings from the proceeds of the sale of school property only on approval by a vote of the district electors.

13. Hold pupils to strict account for disorderly conduct on school property.

14. Discipline students for disorderly conduct on the way to and from school.

15. Except as provided in section 15-1224, deposit all monies received by the district as gifts, grants and devises with the county treasurer who shall credit the deposits as designated in the uniform system of financial records. If not inconsistent with the terms of the gifts, grants and devises given, any balance remaining after expenditures for the intended purpose of the monies have been made shall be used for reduction of school district taxes for the budget year, except that in the case of accommodation schools the county treasurer shall carry the balance forward for use by the county school superintendent for accommodation schools for the budget year.

16. Provide that, if a parent or legal guardian chooses not to accept a decision of the teacher as provided in section 15-521, paragraph 3, the parent or legal guardian may request in writing that the governing board review the teacher's decision. Nothing in this paragraph shall be construed to release school districts from any liability relating to a child's promotion or retention.

17. Provide for adequate supervision over pupils in instructional and noninstructional activities by certificated or noncertificated personnel.

18. Use school monies received from the state and county school apportionment exclusively for payment of salaries of teachers and other employees and contingent expenses of the district.

19. Make an annual report to the county school superintendent on or before October 1 each year in the manner and form and on the blanks prescribed by the superintendent of public instruction or county school superintendent. The board shall also make reports directly to the county school superintendent or the superintendent of public instruction whenever required.

20. Deposit all monies received by school districts other than student activities monies or monies from auxiliary operations as provided in sections 15-1125 and 15-1126 with the county treasurer to the credit of the school district except as provided in paragraph 21 of this subsection and sections 15-1223 and 15-1224, and the board shall expend the monies as provided by law for other school funds.

21. Establish a bank account in which the board may during a month deposit miscellaneous monies received directly by the district. The board shall remit monies deposited in the bank account at least monthly to the county treasurer for deposit as provided in paragraph 20 of this subsection and in accordance with the uniform system of financial records.

22. Employ an attorney admitted to practice in this state whose principal practice is in the area of commercial real estate, or a real estate broker who is licensed by this state and who is employed by a reputable commercial real estate company, to negotiate a lease of five or more years for the school district if the governing board decides to enter into a lease of five or more years as lessor of school buildings or grounds as provided in section 15-342, paragraph 7 or 10. Any lease of five or more years negotiated pursuant to this paragraph shall provide that the lessee is responsible for payment of property taxes pursuant to the requirements of section 42-11104.

23. Prescribe and enforce policies and procedures for disciplinary action against a teacher who engages in conduct which is a violation of the policies of the governing board but which is not cause for dismissal of the teacher or for revocation of the certificate of the teacher. Disciplinary action may include suspension without pay for a period of time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations which are cause for disciplinary action. The governing board may designate a person or persons to act on behalf of the board on these matters.

24. Prescribe and enforce policies and procedures for disciplinary action against an administrator who engages in conduct which is a violation of the policies of the governing board regarding duties of administrators but which is not cause for dismissal of the administrator or for revocation of the certificate of the administrator. Disciplinary action may include suspension without pay for a period of

time not to exceed ten school days. Disciplinary action shall not include suspension with pay or suspension without pay for a period of time longer than ten school days. The procedures shall include notice, hearing and appeal provisions for violations which are cause for disciplinary action.

The governing board may designate a person or persons to act on behalf of the board on these matters. For violations which are cause for dismissal, the provisions of notice, hearing and appeal in chapter 5, article 3 of this title shall apply. The filing of a timely request for a hearing suspends the imposition of a suspension without pay or a dismissal pending completion of the hearing.

25. Notwithstanding section 13-3108, prescribe and enforce policies and procedures that prohibit a person from carrying or possessing a weapon on school grounds unless the person is a peace officer or has obtained specific authorization from the school administrator.

26. Prescribe and enforce policies and procedures relating to the health and safety of all pupils participating in district sponsored practice sessions, games or other interscholastic athletic activities, including the provision of water. A school district and its employees are immune from civil liability for the consequences of the good faith adoption and implementation of policies and procedures pursuant to this paragraph.

27. Prescribe and enforce policies and procedures regarding the smoking of tobacco within school buildings. The policies and procedures shall be adopted in consultation with school district personnel and members of the community and shall state whether smoking is prohibited in school buildings. If smoking in school buildings is not prohibited, the policies and procedures shall clearly state the conditions and circumstances under which smoking is permitted, those areas in a school building which may be designated as smoking areas and those areas in a school building which may not be designated as smoking areas.

28. Establish an assessment, data gathering and reporting system as prescribed in chapter 7, article 3 of this title.

29. Provide special education programs and related services pursuant to section 15-764, subsection A to all children with disabilities as defined in section 15-761.

30. Administer competency tests prescribed by the state board of education for the graduation of pupils from high school.

31. Secure insurance coverage for all construction projects for purposes of general liability, property damage and workers' compensation and secure performance and payment bonds for all construction projects.

32. Keep on file the resumes of all current and former employees who provide instruction to pupils at a school. Resumes shall include an individual's educational and teaching background and experience in a particular academic content subject area. A school district shall inform parents and guardians of the availability of the resume information and shall make the resume information available for inspection on request of parents and guardians of pupils enrolled at a school. Nothing in this paragraph shall be construed to require any school to release personally identifiable information in relation to any teacher or employee including the teacher's or employee's address, salary, social security number or telephone number.

33. Report to local law enforcement agencies any suspected crime against a person or property that is a serious offense as defined by section 13-604 or that involves a deadly weapon or dangerous instrument or serious physical injury and any conduct that poses a threat of death or serious physical injury to employees, students or anyone on the property of the school. A school district and its employees are immune from liability for any good faith actions taken in furtherance of this paragraph. This paragraph does not limit or preclude the reporting by a school district or an employee of a school district of suspected crimes other than those required to be reported by this paragraph. For the purposes of this paragraph, "dangerous instrument", "deadly weapon" and "serious physical injury" have the same meaning prescribed in section 13-105.

34. In conjunction with local law enforcement agencies and local medical facilities, develop an emergency response plan for each school in the school district in accordance with minimum standards developed jointly by the department of education and the division of emergency management within the department of emergency and military affairs.

35. Annually assign at least one school district employee to participate in a multihazard crisis training program developed or selected by the governing board.

36. Provide written notice to the parents or guardians of all students affected in the school district at least thirty days prior to a public meeting to discuss closing a school within the school district. The notice shall include the reasons for the proposed closure and the time and place of the meeting. The governing board shall fix a time for a public meeting on the proposed closure no less than thirty days before voting in a public meeting to close the school. The school district governing board shall give notice of the time and place of the meeting. At the time and place designated in the notice, the school district governing board shall hear reasons for or against closing the school. The school district governing board is exempt from the provisions of this paragraph if it is determined by the governing board that the school shall be closed because it poses a danger to the health or safety of the pupils or employees of the school.

B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this section, the county school superintendent may construct, improve and furnish school buildings or purchase or sell school sites in the conduct of an accommodation school.

C. If any school district acquires real or personal property, whether by purchase, exchange, condemnation, gift or otherwise, the governing board shall pay to the county treasurer any taxes on the property that were unpaid as of the date of acquisition, including penalties and interest. The lien for unpaid delinquent taxes, penalties and interest on property acquired by a school district:

1. Is not abated, extinguished, discharged or merged in the title to the property.

2. Is enforceable in the same manner as other delinquent tax liens.

D. The governing board may not locate a school on property that is less than one-fourth mile from agricultural land regulated pursuant to section 3-365, except that the owner of the agricultural land may agree to comply with the buffer zone requirements of section 3-365. If the owner agrees in writing to comply with the buffer zone requirements and records the agreement in the office of the county recorder as a restrictive covenant running with the title to the land, the school district may locate a school within the affected buffer zone. The agreement may include any stipulations regarding the school, including conditions for future expansion of the school and changes in the operational status of the school that will result in a breach of the agreement.

E. A school district's governing board members and its school council members are immune from civil liability for the consequences of adoption and implementation of policies and procedures pursuant to subsection A of this section and section 15-342. This waiver does not apply if the school district's governing board members or its school council members are guilty of gross negligence or intentional misconduct.

F. A governing board may delegate in writing to a superintendent, principal or head teacher the authority to prescribe procedures that are consistent with the governing board's policies.

G. Notwithstanding any other provision of this title, a school district governing board shall not take any action that would result in an immediate reduction or a reduction within three years of pupil square footage that would cause the school district to fall below the minimum adequate gross square footage requirements prescribed in section 15-2011, subsection C, unless the governing board notifies the school facilities board established by section 15-2001 of the proposed action and receives written approval from the school facilities board to take the action. A reduction includes an increase in administrative space that results in a reduction of pupil square footage or sale of school sites or buildings, or both. A reduction includes a reconfiguration of grades that results in a reduction of pupil square footage of any grade level. This subsection does not apply to temporary reconfiguration of grades to accommodate new school construction if the temporary reconfiguration does not exceed one year. The sale of equipment that results in an immediate reduction or a reduction within three years that falls below the equipment requirements prescribed in section 15-2011, subsection B is subject to commensurate withholding of school district capital outlay revenue limit monies pursuant to the direction of the school facilities board. Except as provided in section 15-342, paragraph 10, proceeds from the sale of school sites, buildings or other equipment shall be deposited in the school plant fund as provided in section 15-1102.

H. Subsections C through F of this section apply to a county board of supervisors and a county school superintendent when operating and administering an accommodation school.

15-514. Reports of immoral or unprofessional conduct; immunity

- A. Any certificated person or governing board member who reasonably suspects or receives a reasonable allegation that a person certificated by the state board of education has engaged in conduct involving minors that would be subject to the reporting requirements of section 13-3620 shall report or cause reports to be made to the department of education in writing as soon as is reasonably practicable but not later than three business days after the person first suspects or receives an allegation of the conduct.
- B. The superintendent of a school district or the chief administrator of a charter school who reasonably suspects or receives a reasonable allegation that an act of immoral or unprofessional conduct that would constitute grounds for dismissal or criminal charges by a certificated person has occurred shall report the conduct to the department of education.
- C. A person who reports or provides information pursuant to this section regarding the immoral or unprofessional conduct of a certificated person in good faith is not subject to an action for civil damages as a result.
- D. A governing board or school or school district employee who has control over personnel decisions shall not take unlawful reprisal against an employee because the employee reports in good faith information as required by this section. For the purposes of this subsection "unlawful reprisal" means an action that is taken by a governing board as a direct result of a lawful report pursuant to this section and, with respect to the employee, results in one or more of the following:
1. Disciplinary action.
 2. Transfer or reassignment.
 3. Suspension, demotion or dismissal.
 4. An unfavorable performance evaluation.
 5. Other significant changes in duties or responsibilities that are inconsistent with the employee's salary or employment classification.
- E. Failure to report information as required by this section by a certificated person constitutes grounds for disciplinary action by the state board of education.
- F. A governing board or school district employee who has control over personnel decisions and who reasonably suspects or receives a reasonable allegation that a person certificated by the state board of education has engaged in conduct involving minors that would be subject to the reporting requirements of section 13-3620 and this article shall not accept the resignation of the certificate holder until these suspicions or allegations have been reported to the state board of education.

15-515. Duty to report violations occurring on school premises

All school personnel who observe a violation of section 13-3102, subsection A, paragraph 12 or section 13-3111 on school premises shall immediately report the violation to the school administrator. The administrator shall immediately report the violation to a peace officer. The peace officer shall report this violation to the department of public safety for inclusion in the statewide and federal uniform crime reports prescribed in section 41-1750, subsection A, paragraph 2.

15-746. School report cards

- A. Each school shall distribute an annual report card that contains at least the following information:
1. A description of the school's regular, magnet and special instructional programs.
 2. A description of the current academic goals of the school.
 3. A summary of the results achieved by pupils enrolled at the school during the prior three school years as measured by the Arizona instrument to measure standards test and the nationally standardized norm-referenced achievement test as designated by the state board and as reported in the annual report prescribed by section 15-743, a summary of the pupil progress on an ongoing and annual basis, showing the trends in gain or loss in pupil achievement over time in reading, language

arts and mathematics for all years in which pupils are enrolled in the school district for an entire school year and for which this information is available and a summary of the pupil progress for pupils not enrolled in a district for an entire school year.

4. The school's current expenditures per pupil for classroom supplies, classroom instruction excluding classroom supplies, administration, support services-students, and all other support services and operations. The current expenditures per pupil by school shall include allocation of the district-wide expenditures to each school, as provided by the district. The report shall include a comparison of the school to the state amount for a similar type of district as calculated in section 15-255. The method of calculating these per pupil amounts and the allocation of expenditures shall be as prescribed in the uniform system of financial records.

5. The attendance rate of pupils enrolled at the school as reflected in the school's average daily membership as defined in section 15-901.

6. The number of incidents that occurred on the school grounds and that required the intervention of local, state or federal law enforcement.

7. The percentage of pupils who have either graduated to the next grade level or graduated from high school.

8. A description of the social services available at the school site.

9. The school calendar including the length of the school day and hours of operations.

10. The total number of pupils enrolled at the school during the previous school year.

11. The transportation services available.

12. Beginning in the 2000-2001 school year and until July 1, 2006, the reading instruction programs used by the school for kindergarten programs and grades one, two and three, pursuant to section 15-718, subsection A. The report card shall include a district comparison of test scores among the different programs of reading instruction and shall identify the program of reading instruction used in each classroom.

13. A description of the responsibilities of parents of children enrolled at the school.

14. A description of the responsibilities of the school to the parents of the children enrolled at the school including dates the report cards are delivered to the home.

15. A description of the composition and duties of the school council as prescribed in section 15-351 if such a school council exists.

16. For the most recent year available, the average current expenditure per pupil for administrative functions compared to the predicted average current expenditure per pupil for administrative functions according to an analysis of administrative cost data by the joint legislative budget committee staff.

17. If the school provides instruction to pupils in kindergarten programs and grades one through three, the ratio of pupils to teachers in each classroom where instruction is provided in kindergarten programs and grades one through three.

18. The average class size per grade level for all grade levels kindergarten through grade eight. For the purposes of this paragraph, "average class size" means the weighted average of each class.

B. The department of education shall develop a standardized report card format that meets the requirements of subsection A of this section. The department shall modify the standardized report card as necessary on an annual basis. The department shall distribute to each school in this state a copy of the standardized report card that includes the required test scores for each school. Additional copies of the standardized report card shall be available on request.

C. After each school has completed the report card distributed to it by the department of education, the school, in addition to distributing the report card as prescribed in subsection A of this section, shall send a copy of the report card to the department. The department shall prepare an annual report that contains the report card from each school in this state.

D. The school shall distribute report cards to parents of pupils enrolled at the school, no later than the last day of school of each fiscal year, and shall present a summary of the contents of the report cards at an annual public meeting held at the school. The school shall give notice at least two weeks before the public meeting that clearly states the purposes, time and place of the meeting.

15-841. Responsibilities of pupils; expulsion; alternative education programs; community service; placement review committee

A. Pupils shall comply with the rules, pursue the required course of study and submit to the authority of the teachers, the administrators and the governing board. A teacher may send a pupil to the principal's office in order to maintain effective discipline in the classroom. If a pupil is sent to the principal's office pursuant to this subsection, the principal shall employ appropriate discipline management techniques that are consistent with rules adopted by the school district governing board.

A teacher may remove a pupil from the classroom if either of the following conditions exists:

1. The teacher has documented that the pupil has repeatedly interfered with the teacher's ability to communicate effectively with the other pupils in the classroom or with the ability of the other pupils to learn.
2. The teacher has determined that the pupil's behavior is so unruly, disruptive or abusive that it seriously interferes with the teacher's ability to communicate effectively with the other pupils in the classroom or with the ability of the other pupils to learn.

B. A pupil may be expelled for continued open defiance of authority, continued disruptive or disorderly behavior, violent behavior that includes use or display of a dangerous instrument or a deadly weapon as defined in section 13-105, use or possession of a gun, or excessive absenteeism. A pupil may be expelled for excessive absenteeism only if the pupil has reached the age or completed the grade after which school attendance is not required as prescribed in section 15-802. A school district may expel pupils for actions other than those listed in this subsection as the school district deems appropriate.

C. A school district may refuse to admit any pupil who has been expelled from another educational institution or who is in the process of being expelled from another educational institution.

D. A school district may annually or upon the request of any pupil or the parent or guardian review the reasons for expulsion and consider readmission.

E. As an alternative to suspension or expulsion, the school district may reassign any pupil to an alternative education program if the pupil does not meet the requirements for participation in the alternative to suspension program prescribed in subsection H of this section and if good cause exists for expulsion or for a long-term suspension.

F. A school district may also reassign a pupil to an alternative educational program if the pupil refuses to comply with rules, refuses to pursue the required course of study or refuses to submit to the authority of teachers, administrators or the governing board.

G. A school district or charter school shall expel from school for a period of not less than one year a pupil who is determined to have brought a firearm to a school within the jurisdiction of the school district or the charter school, except that the school district or charter school may modify this expulsion requirement for a pupil on a case by case basis. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). For the purposes of this subsection:

1. "Expel" may include removing a pupil from a regular school setting and providing educational services in an alternative setting.

2. "Firearm" means a firearm as defined in 18 United States Code section 921.

H. A school district or charter school shall expel from school for at least one year a pupil who is determined to have threatened an educational institution as defined in section 13-2911, except that the school district or charter school may modify this expulsion requirement for a pupil on a case by case basis if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the results of the threat. This subsection shall be construed consistently with the requirements of the individuals with disabilities education act (20 United States Code sections 1400 through 1420). A school district may reassign a pupil who is subject to expulsion pursuant to this subsection to an alternative education program pursuant to subsection E of this section if the pupil participates in mediation, community service, restitution or other programs in which the pupil takes responsibility for the threat. A school district or charter school may require the pupil's parent or guardian to participate in mediation, community service, restitution or other programs in which the parent or guardian takes responsibility with the pupil for the threat. For the purposes of this

subsection, "threatened an educational institution" means to interfere with or disrupt an educational institution by doing any of the following:

1. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause physical injury to any employee of an educational institution or any person attending an educational institution.
2. For the purpose of causing, or in reckless disregard of causing, interference with or disruption of an educational institution, threatening to cause damage to any educational institution, the property of any educational institution, the property of any employee of an educational institution or the property of any person attending an educational institution.
3. Going on or remaining on the property of any educational institution for the purpose of interfering with or disrupting the lawful use of the property or in any manner as to deny or interfere with the lawful use of the property by others.
4. Refusing to obey a lawful order to leave the property of an educational institution.

I. By January 1, 2001, each school district shall establish an alternative to suspension program in consultation with local law enforcement officials or school resource officers. The school district governing board shall adopt policies to determine the requirements for participation in the alternative to suspension program. Pupils who would otherwise be subject to suspension pursuant to this article and who meet the school district's requirements for participation in the alternative to suspension program shall be transferred to a location on school premises that is isolated from other pupils or transferred to a location that is not on school premises. The alternative to suspension program shall be discipline intensive and require academic work, and may require community service, groundskeeping and litter control, parent supervision, and evaluation or other appropriate activities. The community service, groundskeeping and litter control, and other appropriate activities may be performed on school grounds or at any other designated area.

J. Each school shall establish a placement review committee to determine the placement of a pupil if a teacher refuses to readmit the pupil to the teacher's class and to make recommendations to the governing board regarding the readmission of expelled pupils. The process for determining the placement of a pupil in a new class or replacement in the existing class shall not exceed three business days from the date the pupil was first removed from the existing class. The principal shall not return a pupil to the classroom from which the pupil was removed without the teacher's consent unless the committee determines that the return of the pupil to that classroom is the best or only practicable alternative. The committee shall be composed of two teachers who are employed at the school and who are selected by the faculty members of the school and one administrator who is employed by the school and who is selected by the principal. The faculty members of the school shall select a third teacher to serve as an alternate member of the committee. If the teacher who refuses to readmit the pupil is a member of the committee, that teacher shall be excused from participating in the determination of the pupil's readmission and the alternate teacher member shall replace that teacher on the committee until the conclusion of all matters relating to that pupil's readmission.

R7-2-1308. Unprofessional and Immoral Conduct

A. Individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall:

1. Make reasonable efforts to protect pupils from conditions harmful to learning, health, or safety;
2. Account for all funds collected from pupils, parents, or school personnel;
3. Adhere to provisions of the Uniform System of Financial Records related to use of school property, resources, or equipment; and
4. Abide by copyright restrictions, security, or administration procedures for a test or assessment.

B. Individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall not:

1. Discriminate against or harass any pupil or school employee on the basis of race, national origin, religion, sex, including sexual orientation, disability, color or age;
2. Deliberately suppress or distort information or facts relevant to a pupil's academic progress;

3. Misrepresent or falsify pupil, classroom, school, or district-level data from the administration of a test or assessment;
 4. Engage in a pattern of conduct for the sole purpose or with the sole intent of embarrassing or disparaging a pupil;
 5. Use professional position or relationships with pupils, parents, or colleagues for improper personal gain or advantage;
 6. Falsify or misrepresent documents, records, or facts related to professional qualifications or educational history or character;
 7. Assist in the professional certification or employment of a person the certificate holder knows to be unqualified to hold a position;
 8. Accept gratuities or gifts that influence judgment in the exercise of professional duties;
 9. Possess, consume, or be under the influence of alcohol on school premises or at school-sponsored activities;
 10. Illegally possess, use, or be under the influence of marijuana, dangerous drugs, or narcotic drugs, as each is defined in A.R.S. § 13-3401;
 11. Make any sexual advance towards a pupil or child, either verbal, written, or physical;
 12. Engage in sexual activity, a romantic relationship, or dating of a pupil or child;
 13. Submit fraudulent requests for reimbursement of expenses or for pay;
 14. Use school equipment to access pornographic, obscene, or illegal materials; or
 15. Engage in conduct which would discredit the teaching profession.
- C. Individuals found to have engaged in unprofessional or immoral conduct shall be subject to, and may be disciplined by, the Board.
- D. Procedures for making allegations, complaints, and investigation of unprofessional or immoral conduct shall be as set forth in this Article.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1544, effective June 28, 2003 (Supp. 03-2).

18 USC. Sec. 921. - Definitions

(a) As used in this chapter -

- (1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.
- (2) The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).
- (3) The term "**firearm**" means
 - (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
 - (B) the frame or receiver of any such weapon;
 - (C) any **firearm** muffler or **firearm** silencer; or
 - (D) any destructive device. Such term does not include an antique **firearm**.
- (4) The term "destructive device" means -
 - (A) any explosive, incendiary, or poison gas -
 - (i) bomb,
 - (ii) grenade,
 - (iii) rocket having a propellant charge of more than four ounces,
 - (iv) missile having an explosive or incendiary charge of more than one-quarter ounce,
 - (v) mine, or
 - (vi) device similar to any of the devices described in the preceding clauses;

- (B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and
- (C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section [4684](#)(2), [4685](#), or [4686](#) of title [10](#); or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

- (5) The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.
- (6) The term "short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.
- (7) The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.
- (8) The term "short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.
- (9) The term "importer" means any person engaged in the business of importing or bringing **firearms** or ammunition into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this chapter.
- (10) The term "manufacturer" means any person engaged in the business of manufacturing **firearms** or ammunition for purposes of sale or distribution; and the term "licensed manufacturer" means any such person licensed under the provisions of this chapter.
- (11) The term "dealer" means
 - (A) any person engaged in the business of selling **firearms** at wholesale or retail,
 - (B) any person engaged in the business of repairing **firearms** or of making or fitting special barrels, stocks, or trigger mechanisms to **firearms**, or
 - (C) any person who is a pawnbroker. The term "licensed dealer" means any dealer who is licensed under the provisions of this chapter.
- (12) The term "pawnbroker" means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any **firearm** as security for the payment or repayment of money.
- (13) The term "collector" means any person who acquires, holds, or disposes of **firearms** as curios or relics, as the Secretary shall by regulation define, and the term "licensed collector" means any such person licensed under the provisions of this chapter.
- (14) The term "indictment" includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.
- (15) The term "fugitive from justice" means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(16) The term "antique **firearm**" means -

- (A) any **firearm** (including any **firearm** with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or
- (B) any replica of any **firearm** described in subparagraph (A) if such replica -
 - (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or
 - (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or
- (C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term "antique **firearm**" shall not include any weapon which incorporates a **firearm** frame or receiver, any **firearm** which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(17)

- (A) The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any **firearm**.
- (B) The term "armor piercing ammunition" means -
 - (i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or
 - (ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.
- (C) The term "armor piercing ammunition" does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(18) The term "Secretary" or "Secretary of the Treasury" means the Secretary of the Treasury or his delegate.

(19) The term "published ordinance" means a published law of any political subdivision of a State which the Secretary determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Secretary, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

(20) The term "crime punishable by imprisonment for a term exceeding one year" does not include -

- (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or
- (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive **firearms**.

(21) The term "engaged in the business" means -

- (A) as applied to a manufacturer of **firearms**, a person who devotes time, attention, and labor to manufacturing **firearms** as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the **firearms** manufactured;
- (B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;
- (C) as applied to a dealer in **firearms**, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in **firearms** as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of **firearms**, but such term shall not include a person who makes occasional sales, exchanges, or purchases of **firearms** for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of **firearms**;
- (D) as applied to a dealer in **firearms**, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of **firearms**, or who occasionally fits special barrels, stocks, or trigger mechanisms to **firearms**;
- (E) as applied to an importer of **firearms**, a person who devotes time, attention, and labor to importing **firearms** as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the **firearms** imported; and
- (F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

(22) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of **firearms** is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal **firearms** collection: Provided, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of **firearms** for criminal purposes or terrorism. For purposes of this paragraph, the term "terrorism" means activity, directed against United States persons, which -

- (A) is committed by an individual who is not a national or permanent resident alien of the United States;
- (B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and
- (C) is intended -
 - (i) to intimidate or coerce a civilian population;
 - (ii) to influence the policy of a government by intimidation or coercion; or
 - (iii) to affect the conduct of a government by assassination or kidnapping.

(23) The term "machinegun" has the meaning given such term in section 5845(b) of the National **Firearms** Act ([26 U.S.C. 5845\(b\)](#)).

(24) The terms "**firearm** silencer" and "**firearm** muffler" mean any device for silencing, muffling, or diminishing the report of a portable **firearm**, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a **firearm** silencer or **firearm** muffler, and any part intended only for use in such assembly or fabrication.

(25) The term "school zone" means -

- (A) in, or on the grounds of, a public, parochial or private school; or
- (B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

(26) The term "school" means a school which provides elementary or secondary education, as determined under State law.

(27) The term "motor vehicle" has the meaning given such term in section [13102](#) of title [49](#), United States Code.

(28) The term "semiautomatic rifle" means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(29) The term "handgun" means -

(A) a **firearm** which has a short stock and is designed to be held and fired by the use of a single hand; and

(B) any combination of parts from which a **firearm** described in subparagraph (A) can be assembled.

(30) The term "semiautomatic assault weapon" means -

(A) any of the **firearms**, or copies or duplicates of the **firearms** in any caliber, known as -

(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

(ii) Action Arms Israeli Military Industries UZI and Galil;

(iii) Beretta Ar70 (SC-70);

(iv) Colt AR-15;

(v) Fabrique National FN/FAL, FN/LAR, and FNC;

(vi) SWD M-10, M-11, M-11/9, and M-12;

(vii) Steyr AUG;

(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of -

(i) a folding or telescoping stock;

(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

(iii) a bayonet mount;

(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and

(v) a grenade launcher;

(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of -

(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;

(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the **firearm** with the nontrigger hand without being burned;

(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and

(v) a semiautomatic version of an automatic **firearm**; and

(D) a semiautomatic shotgun that has at least 2 of -

(i) a folding or telescoping stock;

(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

(iii) a fixed magazine capacity in excess of 5 rounds; and

(iv) an ability to accept a detachable magazine.

(31) The term "large capacity ammunition feeding device" -

(A) means a magazine, belt, drum, feed strip, or similar device manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994 that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; but

(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

(32) The term "intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

(33)

(A) Except as provided in subparagraph (C), the term "misdemeanor crime of domestic violence" means an offense that -

(i) is a misdemeanor under Federal or State law; and

(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

(B)

(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless -

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive **firearms**.

(34) The term "secure gun storage or safety device" means -

(A) a device that, when installed on a **firearm**, is designed to prevent the **firearm** from being operated without first deactivating the device;

(B) a device incorporated into the design of the **firearm** that is designed to prevent the operation of the **firearm** by anyone not having access to the device; or

(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a **firearm** and that is designed to be unlocked only by means of a key, a combination, or other similar means.

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located

PL 107-110. SEC. 4141. GUN-FREE REQUIREMENTS

`(a) SHORT TITLE- This subpart may be cited as the `Gun-Free Schools Act'.

`(b) REQUIREMENTS-

`(1) IN GENERAL- Each State receiving Federal funds under any title of this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

`(2) CONSTRUCTION- Nothing in this subpart shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.

`(3) DEFINITION- For the purpose of this section, the term `firearm' has the same meaning given such term in section 921(a) of title 18, United States Code.

`(c) SPECIAL RULE- The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.

`(d) REPORT TO STATE- Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any title of this Act shall provide to the State, in the application requesting such assistance--

`(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and

`(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including--

`(A) the name of the school concerned;

`(B) the number of students expelled from such school; and

`(C) the type of firearms concerned.

`(e) REPORTING- Each State shall report the information described in subsection (d) to the Secretary on an annual basis.

`(f) DEFINITION- For the purpose of subsection (d), the term `school' means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

`(g) EXCEPTION- Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

`(h) POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL-

`(1) IN GENERAL- No funds shall be made available under any title of this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

`(2) DEFINITION- For the purpose of this subsection, the term `school' has the same meaning given to such term by section 921(a) of title 18, United States Code.